

Recommendations

Recommendation 1

The Committee recommends that the main bill be amended to require that within 18 months of establishment ACMA commence a review of its operations, and systematically review the entire regulatory policy for communications in light of future challenges. The review report should be tabled in Parliament within two months of its receipt by the Minister. The review should reconsider the recommendations of both the Productivity Commission *Report on Broadcasting* and the ACCC *Report on Emerging Market Structures in the Communications Sector*, as well as any policy reviews currently underway [para.5.15].

Recommendation 2

The Committee recommends that the main bill be amended to require the ACMA to provide reports to the Parliament on matters of communications policy from time to time where the ACMA is of the view current policy settings are inadequate to meet current or future challenges [para. 5.21].

Recommendation 3

The Committee recommends that the Productivity Commission be tasked to undertake a full examination of all options for structural reform in Australian telecommunications, including but not restricted to, structural separation of Telstra [para. 5.38].

Recommendation 4

The Committee recommends that Telstra be required to divest its shareholding in Foxtel [para. 5.39]

Recommendation 5

The Committee recommends that the Government should direct the Australian Competition and Consumers Commission to provide further advice on its recommendations in its report *Emerging Market Structures in the Communications Sector* on the feasibility of introducing a content access regime [para. 5.40].

Recommendation 6

The Committee recommends that the Government should direct the Australian Competition and Consumer Commission to provide further advice on its recommendations in its report *Emerging Market Structures in the*

Communications Sector that Telstra be required to divest itself of its HFC network [para. 5.41].

Recommendation 7

The Committee recommends that the ACCC and the ACMA be encouraged to develop the closest of possible working relationships, including:

- cross-membership between the ACMA and ACCC governing boards; and
- pooling of resources on projects with relevance to both technical and competition regulation [para. 5.44].

Recommendation 8

The Committee recommends that the Government consider the creation in legislation of a Content Board modelled on the United Kingdom model to advise the ACMA on content regulation [para. 5.56].

Recommendation 9

The Committee recommends that section 4 of the *Broadcasting Services Act* be amended to place greater emphasis in the ACMA's regulatory policy on fair and effective resolution of consumer complaints [para 5.57].

Recommendation 10

The Committee recommends that funding to the ACCC for telecommunications competition issues be substantially increased as a matter of urgent priority [para. 5.74].

Recommendation 11

The Committee recommends that the Minister establish clear selection criteria for the appointment of ACMA board members, advertise and conduct a merit-based selection process to ensure recruitment from the widest possible talent pool [para. 5.85].

Recommendation 12

The Committee recommends that the ACMA clearly establish mechanisms to ensure that the differing legislative public interest objectives for the management of broadcasting and telecommunications spectrum are recognised and fully protected by the merged entity but that anomalies in the calculation of commercial licence fees for access to spectrum be considered as part of the policy review provided for in recommendation 1 [para. 5.99].

Recommendation 13

The Committee recommends that section 4 of the *Telecommunications Act* be amended to remove the preference for self-regulation and to more closely reflect the regulatory policy statement under the *Broadcasting Services Act*. The revised section should make it clear that Parliament intends that telecommunication be regulated in a manner that:

- promotes the use of industry self-regulation where this will not impede the long term interests of end users; and
- enables the objects mentioned in section 3 to be met in a way that does not impose unnecessary financial and administrative burdens on participants in the Australian telecommunications industry [para. 5.115].

Recommendation 14

The Committee recommends that the ACA and the ACMA give urgent consideration to the adoption of the recommendations in the ACA research report *Consumer Driven Communications: Strategies for Better Representation*, as part of a concerted effort to ensure that the ACMA is more pro-consumer than the ACA and ABA were able to be and that the Government give urgent consideration to any amendments to communications legislation that the ACMA deems necessary as a result of such consideration [para. 5.122].

Recommendation 15

In recognition of the need for the ACMA to improve on the consumer issues performance of the ACA and ABA, the Committee recommends that at least one member of the ACMA board should have a background in consumer advocacy and representation [para. 5.123].

Recommendation 16

The Committee recommends that the main bill be amended to:

- explicitly refer to the promotion of competition as a legitimate means to advance objectives of consumer protection in clause 8 of the main bill;
- explicitly place the development and enforcement of adequate consumer protection requirements into clause 8 of the main bill; and
- explicitly refer to the enforcement as well as the monitoring of compliance with codes of practice for broadcasting into clause 10 of the main bill [para. 5.124].

Recommendation 17

The Committee recommends that *Telecommunications (Consumer Protection and Service Standards) Act 1999* be amended in order to establish a single Communications Industry Ombudsman [para. 5.141].

Recommendation 18

The Committee recommends that clause 57 of the main bill be amended to make it clear that reports under the *Broadcasting Services Act* on complaints received and investigations conducted will be publicly released [para. 5.148].